

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

JACK T. VINSON,)
an individual,)
)
vs.) No. CIV-07-1158-C
)
THE STATE OF OKLAHOMA ex rel.)
OKLAHOMA DEPARTMENT OF)
CORRECTION, LAWTON)
COMMUNITY CORRECTION CENTER,)
)
Defendant.)

MEMORANDUM OPINION AND ORDER

Plaintiff has filed the present lawsuit alleging that Defendant, his former employer, violated Title VII, 42 U.S.C. § 2000e et seq., and the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. § 621 et seq. Defendant has filed a motion to dismiss (see Def.’s Mot., Dkt. No. 5), and Plaintiff has responded (see Pl.’s Resp., Dkt. No. 6). This matter is now at issue.

Defendant seeks dismissal of Plaintiff’s ADEA claim and cites Kimel v. Fla. Bd. of Regents, 528 U.S. 62 (2000), to support its argument that the State cannot be sued for violations of ADEA without its consent. (See Def.’s Mot. at 1-2.) Although Plaintiff disputes Defendant’s characterization of Kimel’s effect on claims for prospective equitable relief, Plaintiff has discarded his ADEA claim voluntarily. (See Pl.’s Resp. at 2.) Plaintiff concedes that any such claim has been “rendered moot” by Plaintiff’s voluntary employment

transfer, and he “will not continue to urge such claims under the ADEA.” (See id.)^{*}

Therefore, Plaintiff’s ADEA claim shall be dismissed.

CONCLUSION

Defendant’s motion to dismiss (Dkt. No. 5) is GRANTED. Plaintiff’s ADEA claim is hereby dismissed.

IT IS SO ORDERED this 8th day of April, 2008.



ROBIN J. CAUTHRON
United States District Judge

^{*}Although Plaintiff’s response states his intention to pursue these equitable claims under state law, Plaintiff’s complaint makes no reference to any state-law claims, and he has not sought leave to amend. See Fed. R. Civ. P. 8(a)(2), 15(a)(2); (Compl, Dkt. No. 1).